

98-84356-21

Humboldt Savings and
Loan Society...

The internal revenue law
as it affects savings...

San Francisco

1870

98-84356-21

MASTER NEGATIVE #

COLUMBIA UNIVERSITY LIBRARIES
PRESERVATION DIVISION

BIBLIOGRAPHIC MICROFORM TARGET

ORIGINAL MATERIAL AS FILMED - EXISTING BIBLIOGRAPHIC RECORD

332.2	Weber, Adolph C
Z	
v.3	The internal revenue law as it affects savings banks in California, its discriminations against those with capital or guaranty stock; protest of the Humboldt savings and loan society of San Francisco. San Francisco, Waters, 1870. 16 p. 21½ cm. Volume of pamphlets.
	Only Ed

RESTRICTIONS ON USE: Reproductions may not be made without permission from Columbia University Libraries.

TECHNICAL MICROFORM DATA

FILM SIZE: 35mm

REDUCTION RATIO: 11:1

IMAGE PLACEMENT: IA ☒ IIA IB IIB

DATE FILMED: 3/3/98

INITIALS: F.C.

TRACKING #: 31926

FILMED BY PRESERVATION RESOURCES, BETHLEHEM, PA.

P56
39

Vol 4

21

Weber, Internal Revenue
Savings-Banks of California
1870

56
39

382.2
2
1
#1

THE

INTERNAL REVENUE LAW

AS IT AFFECTS

Savings' Banks in California:

ITS DISCRIMINATIONS AGAINST
THOSE WITH CAPITAL OR
GUARANTY STOCK.

Protest of the Humboldt Savings and Loan Society
OF SAN FRANCISCO.

SAN FRANCISCO:

Waters, Newhoff & Co., Printers, No. 512 Sacramento Street.

1870.

THE
INTERNAL REVENUE LAW

AS IT AFFECTS

Savings' Banks in California:

ITS DISCRIMINATIONS AGAINST
THOSE WITH CAPITAL OR
GUARANTY STOCK.

Protest of the Humboldt Savings and Loan Society
OF SAN FRANCISCO.

SAN FRANCISCO:
Waters, Newhoff & Co., Printers, No. 512 Sacramento Street.
1870.

THE INTERNAL REVENUE LAW AS IT AFFECTS SAVINGS' BANKS IN CALIFORNIA:
ITS DISCRIMINATIONS AGAINST THOSE
WITH CAPITAL OR GUARANTY STOCK.

The attention of the Executive and Congress is respectfully called to the following sections in the Internal Revenue Act of June 30th, 1864, as amended July 13th, 1866, which, under the ruling of the Commissioner of Internal Revenue, discriminate unjustly against those Savings' Banks established under the general law of California, with a capital or guaranty stock :

Section 79, as amended, is as follows :

"Banks chartered or organized under a general law, with a capital not exceeding fifty thousand dollars, and bankers using or employing a capital not exceeding the sum of fifty thousand dollars, shall pay one hundred dollars ; when exceeding fifty thousand dollars, for every additional thousand dollars in excess of fifty thousand dollars, two dollars. Every incorporated or other bank, and every person, firm, or company, having a place of business where credits are opened by the deposit or collection of money or currency, subject to be paid or remitted upon draft, check, or order, or where money is advanced or loaned on stocks, bonds, bullion, bills of exchange, or promissory notes, or where stocks, bonds, bullion, bills of exchange, or promissory notes are received for discount or for sale, shall be regarded as a bank or as a banker ; *Provided,*

that any savings' bank having no capital stock, and whose business is confined to receiving deposits, and loaning or investing the same for the benefit of its depositors, and which does no other business of banking, shall not be subject to this tax."

Section 110, as amended, is as follows:

“That there shall be levied, collected and paid, a tax of one twenty-fourth of one *per centum* each month upon the average amount of the deposits of money, subject to payment by check or draft, or represented by certificates of deposit or otherwise, whether payable on demand or at some future day, with any person, bank, association, company, or corporation engaged in the business of banking; and a tax of one twenty-fourth of one *per centum* each month, as aforesaid, upon the capital of any bank, association, company, or corporation, and on the capital employed by any person in the business of banking beyond the average amount invested in United States Bonds.

And the deposits in associations or companies known as provident institutions, savings' banks, savings' funds, or savings' institutions having no capital stock, and doing no other business than receiving deposits to be loaned or invested for the sole benefit of the parties making such deposits, without profit or compensation to the association or company, shall be exempt from tax on so much of their deposits as they have invested in securities of the United States, and on all deposits less than five hundred dollars made in the name of any one person; and the returns required to be made by such provident institutions and savings' banks after July, eighteen hundred and sixty-six, shall be made on the first Monday of January and July of each year, in such form and manner as may be prescribed by the Commissioner of Internal Revenue."

Section 120, as amended, is as follows:

“That there shall be levied and collected a tax of five *per centum* on all dividends in scrip or money thereafter

declared due, whenever and whenever the same shall be payable to stock-holders, policy-holders, or depositors, or parties what-soever, including non-residents; whether citizens or aliens, as part of the earnings, income or gains of any bank, trust company, savings' institution, or of any fire, marine, life, inland insurance company, either stock or mutual, under whatever name or style known or called, in the United States or Territories, whether specially incorporated or existing under general laws, and on all undisputed sum or sums made or added during the year to their surplus or contingent funds.

* * * * * *Provided that* * * * * *

nor shall the annual or semi-annual interest allowed or paid to the depositors in savings' banks or savings' institutions be considered as dividends."

The following is the circular of the Commissioner in exposition of the above clauses :

CIRCULAR No. 53.

OFFICE OF INTERNAL REVENUE,
Washington, September 17th, 1866.

As the amendatory Act of July 13th, 1866, takes effect on the first day of August, 1866, all savings' banks will be required to make the returns of tax on their deposits for the month of July, 1866, in manner and form as heretofore. The return for said month shall be made to the proper Assistant Assessor, and the tax paid to the Collector in accordance with Circular No. 48, July 20th, 1866.

The returns of the above named institutions, from the first day of August, 1866, will be made on the first day of January, 1867, and semi-annually thereafter, in the manner set forth in form No. 106.

The benefit of the exemptions in the proviso to section 110, Act of June 30th, 1864, as amended July 13th, 1866, is confined to provident institutions, savings' banks, savings' funds, or savings' institutions having no capital stock, and doing no other business than receiving deposits to be loaned or invested for the sole benefit of the parties making such deposits, without profit or compensation to the company.

In ascertaining the taxable amount of deposits, all sums of five hundred (\$500) dollars and upwards, in the name of any one person, are to be included.

In determining the "average amount of deposits" subject to taxation for the period covered by the return, these institutions will be allowed, in order to facilitate the making of such return, to take the amount on deposit on the first days of January and July of each year, prior to the time of making their returns, as the correct average deposit, or to take such period between those dates as may be satisfactory to the Assessor of the District where such institution is located. The total amount of the deposits at the date fixed upon should always be stated in the return. The term 'United States Securities' includes all interest-bearing obligations of the United States, owned and held by the bank as an investment.

The proviso to section 120, Act of June 30th, 1864, as amended July 13th, 1866, so far as relates to the interest paid to depositors in savings' banks or savings' institutions, is construed to apply only to such savings' institutions as are described in the proviso to section 110, Act of June 30th, 1864, as amended July 13th, 1866.

All others are liable to the five per cent. tax imposed by section 120 aforesaid on the dividends or interest declared or paid by them to depositors and stockholders.

E. A. ROLLINS,
Commissioner.

It will be seen on examination of the foregoing that a discrimination against the savings' bank having a so-called capital stock working under the general law of California, obtains in the following particulars:

1st. Savings' banks having a capital stock must pay a tax of one twenty-fourth of one per cent. per month upon the average amount of deposits and capital, *including deposits under \$500*; the returns therefor must be made

monthly instead of semi-annually, thus compelling a certain loss of interest, in addition to the vexatious method of accounting.

2d. They must pay a tax of five per cent. upon all dividends to depositors.

3d. They must pay a license tax of \$100 upon the first \$50,000 capital, and \$2 on each additional \$1,000.

Under the law of California, banks with and without capital stock are of the same essential character, the difference between the two classes being merely in the character and mode of security, as may be seen from extracts from the law hereinafter given; the preference, however, in so far as security to the depositor is concerned, being with those having a capital stock.

As the aggregate of deposits less than \$500 standing in the name of one depositor, must, from the character of the institutions, be large, the tax of one twenty-fourth per cent. each month is particularly severe, while the additional tax of five per cent. upon all dividends to depositors, and the method of making the return, can in fact end in no other result than that of making capital stock savings' banks little more than supplementary revenue offices, or of forcing them to hand over their business and deposits to their more favored, though no more meritorious rivals.

The Humboldt Savings and Loan Society respectfully requests the consideration by Congress of the clauses in question, with a view to their amendment, and the reconsideration by the Commissioner of his

ruling in the matter, in so far as the savings' banks in California are affected.

The Savings Bank as a means of financial good, may be fairly considered one of the quiet triumphs of this century. A conception of charity, it has grown in most civilized countries to be a good-natured giant of popular progress, entitled to the respect and good-will of all. It has taken its place at the door of what was once poverty and improvidence, keeping the wolf away, and making the attainment of competence, and even wealth no longer the impossibility of a hundred years since.

In England, the earlier legislation on the subject of savings' institutions was of peculiar tenderness to the working man. Wealthy and charitable trustees took his slender savings, handed them over to the State, which paid a higher rate of interest therefor than to its richer creditors; and when the well-intentioned but lazy gentlemen who acted as trustees let the control of the business slip into the hands of dishonest actuaries, the Government many times came forward, and with impulsive generosity shouldered the loss.

Finally, in the past few years, it has, through its system of Postal Savings' Banks, taken the entire matter into its own hands, employing its own servants to receive the funds, and giving the opportunities of deposit with interest return to all, irrespective of amount or place of residence. Taxation in that direction has never entered the mind of the British statesman.

The favorite English idea is certainty and solidity.

To an average Briton, an annual return of two per cent. when financially certain, is more respectable than a higher rate when tinged with the slightest vagueness. His Government, too, is more of a *factotum* than ours. He relies on it for the performance of more duties; and he turns to it with a sort of helplessness in every emergency where his welfare is concerned. What the State does for him, we however are accustomed to do for ourselves. We are unconsciously too proud to ask from State or Municipality that which other means can accomplish as well or nearly as well. Beyond this, too, the American has a greater genius for enterprise than can be found in older lands. He is willing, for the sake of a greater return, to risk his earnings and capital in more obscure channels. He understands the machinery of the wheel of fortune well enough not to be utterly cast down when it leaves him for a space at the bottom; and he is willing to take approximate certainty for the ideal itself.

In the older States, the means have generally been at hand for the poor man to invest his surplus earnings. It is a matter of education that grows with his growth, and that occupies his mature attention at all times.

There are no sudden changes with the denizen of the Eastern States in business and condition, such as attached to the normal life of the Californian in the early days of Pacific colonization. The method of gaining money, the state of the financial interests, the unsettled

life, the vicissitudes of mining, all contributed to render it impossible for the latter to find ready and safe investment for such little means as he acquired during such seasons of tempestuous success; and the succeeding ebb of misfortune carried with it what little he might have retained through sheer force of character. Besides, what was easily earned was as readily parted with. What Mr. Norris, one of the Government inspectors of schools, says of the well paid miners and iron workers of Staffordshire, might be aptly said of the early California population, and their want of the hoarding faculty:

"Improvvidence is too tame a word for it—it is recklessness; here, young and old, married and single, are uniformly and almost avowedly self-indulgent spendthrifts. One sees this reckless character marring and vitiating the nobler traits of their nature. Their gallantry in the face of danger is akin to foolhardiness; their power of intense labor is seldom exerted, except to compensate for time lost in idleness and revelry; their readiness to make 'gatherings' for their sick and married comrades seems only to obviate the necessity of previous savings."

This state of financial barbarism could never avail, the public prosperity in any direction. Large banks, grand schemes, and speculations were only for rich men—men who could reason out their fortunes. There was no place where the miner or laborer could put his talent in the shape of a handful of "slugs" where it might increase. And with a dazzling sort of dissipation akin to his method of life before his eyes, the store gathered from days of toil, generally burnt its way from his money-belt to the gaming table; and he went back

to lay by a fresh supply of gold and rheumatism by toil in the placers.

Then came a better era—the day of savings' banks. What they have done for California, and particularly for San Francisco, may be seen in the almost agrarian condition in which real estate is owned and held. They are the pillars of our success—the real governors of the action of popular wealth among us.

The following are the main provisions of the law under which savings' corporations are organized:

It may be remarked that the distinctions between the two classes—those with and those without capital stock are hardly even recognized except in the necessary limits to the action of each as to conduct.

Under the general law of California, corporations for the purpose of the aggregation of the savings and funds of the members thereof, and others, and preserving and safely investing the same for their common benefit may be formed under conditions and restrictions, stated briefly as follows:

Five or more persons desirous of forming such a corporation, may file with the County Clerk of the County where the place of business of the corporation is to be located, and with the Secretary of State, a certificate properly signed and acknowledged by them, stating the corporate name, the object of the corporation, the time of its existence (not to exceed fifty years), the number and names of directors, and the place of business of the incorporation.

The act of filing the certificate clothes the parties so acting with the usual attributes of a corporation, and

enables such body corporate to purchase, hold, sell, convey, and release from trust or mortgage such real and personal estate as they may hold in the course of their business; to loan and invest the funds of the corporation; to receive deposits of money, and to loan and invest the same; to collect the same with interest, and to repay such deposits without interest, or so much of the earnings and interest as the by-laws of the corporations may provide; to make by-laws, not inconsistent with the general law, for the organization of the company and the management of its property, the regulation of its affairs, the conditions on which deposits shall be received, the time and manner of dividing the profits, etc.

No corporation can loan money, except upon real and personal property, and where the corporation has a paid up capital or reserve fund of \$300,000, without the consent of two-thirds of the stockholders upon the order of three-fourths of the directors.

The corporate powers shall be exercised by a board of not less than five directors, residents of the State and citizens of the United States, *who shall be holders of stock*, each to such amount and under such conditions as the by-laws may prescribe, *(if a capital stock is provided for in the certificate of incorporation,)* or members, each having deposits with the corporation to the amount of at least one hundred dollars (if the company has no capital stock.)

It shall not be lawful for the corporation or the directors to make any dividend, except from the surplus profits arising from the business of the corporation; and the directors shall, at such times and in such manner as the by-laws shall prescribe, declare and pay dividends of so much of the profits of the company, and of the interest arising from the capital stock and deposits, as may be appropriated for that purpose by the provisions of the by-laws. And it shall not be lawful for the corporation or the directors to contract any debt or liability against the corporation for any purpose whatever; *but the capital stock and the assets of the corporation shall be a security to depositors, who are not stockholders;* and the

by-laws may provide that the same security shall extend to deposits made by stockholders.

Corporations formed under this Act may prescribe by their by-laws the time and conditions on which repayment is made to depositors; but whenever there is any call by depositors for repayment of a greater amount than the corporation may have disposable for that purpose, it shall not be lawful for the directors or officers to make any new loans or investments of the funds of the depositors or of the earnings thereof until such excess of call shall have ceased.

And the directors of any corporation formed under this Act, and *having no capital stock* shall retain, on each dividend day, at least five per cent. of the net profits of the corporation, and such amount shall be used towards paying any losses which the corporation may sustain in the pursuance of its lawful business; and the corporation may provide by its by-laws for the disposal of any excess in the reserve fund over one hundred thousand dollars, and the final disposal, upon the dissolution of the corporation, of the reserve fund or of the remainder thereof, after payment of losses.

Corporations formed for the purposes designated in the Act may have a capital stock. * * * * *
The rights and privileges to be accorded to such stock, as distinct from those to be accorded to depositors, and the obligations to be imposed upon it in the same relations shall be fixed by the by-laws. It shall not be lawful for the directors to divide, withdraw, or in any way pay to the stockholders, or any of them, any part of the capital stock, nor to reduce the amount of the same.

No certificate representing shares of stock shall be issued, nor shall such stock be considered as acquired until the whole sum of money which such certificate purports to represent shall have been paid into the corporation.

It will be seen that in the savings' bank without capital stock, the security exists in the fact that the depositors mutually insure each other's funds. Losses (after swallowing up any reserve fund) fall upon all

alike. The basis of prosperity of such a bank is its popularity, its age, its ability in fact to gather and maintain a reserve fund sufficient to meet possible loss, however great; and to be really secure, it must have age, success, and popularity. In the bank organized with a capital stock, the stock and its earnings become an additional guaranty to the depositor. The stockholder is not paid a cent until the depositor is reimbursed in full. He may lose his entire investment, the depositor cannot be deprived of a dollar. For the success of either bank, it is necessary that the public should know that there is money already invested in the undertaking before they can give it their confidence. The guaranty of capital stock is nothing more than a business-like way of supplying the endorsement of capital in lieu of that afforded by the whimsical chances of confidence on the part of an ignorant patronage.

The depositor is in one as in the other the actual party benefited; it is the safety of his money that is looked after, and not the capitalist's.

Finally, savings' banks, as they exist under the general law of California, are in no sense within the definition of banking as laid down in the Internal Revenue Act. (See Sec. 79 as amended.) They do not do a banking business. They receive money on deposit, it is true; but not as bankers, to return it on demand—out to loan upon real and personal security—and the practice is to loan only on real estate. This is in no sense banking. The capital employed cannot be held

to be banking capital. It is not employed in that manner. It does not return the profit in the way that banking capital does; nor does the capital stock in these banks having it—though it is capital stock only in name, having no other attribute of banking capital—figure, in any way, either as to method of investment or receipt of profits, except as a deposit. It *is* a deposit and nothing else. It imparts no selfish character to the institution, but rather fixes greater responsibility upon its holder, as having a larger stake in the enterprise.

There is something essentially unfair in taxing small depositors in any savings' bank. Small incomes have always been passed over in the schedules of national taxation. If the depositor's income is large, it is reached, and taxable benefit gathered by means of other provisions; if it is small, it matters not in the hands of what society or corporation it is, it should be left undisturbed and undiminished.

The class of depositors in both banks is precisely the same. The State looks on them with equal favor—the Federal Government has no right to discriminate. It cannot be that this tax and interpretation are founded on any political principle of discrimination, looking to the rooting out of banks in California organized with a capital stock. In such a view, the mode of assessment will be eminently successful; but it will be by means of an oppressive enactment, making the yoke of National taxation uneven and galling to bear; imped-

ing materially the financial success of a new country which has promptly borne its burden of Federal contribution, and sacrificing the popular welfare to the artificial enforcement of an unreasonable and barren law.

Let it be granted, however, that only the capital stock and all interest or profit growing out of it should be taxed, (and we would hardly care to protest strongly against such a course,) the investments of the small depositors (under \$500.) might be left untouched, and the earnings of *all* exempt from the five per cent. dividend tax. These do not stand forth as proper subjects of taxation, any more than in banks without capital stock; and the injustice felt is experienced particularly with them.

A careful consideration of the entire subject will be a favor to interests in California, having as little selfishness in their composition as is possible with anything in the channels of finance.

ADOLPH C. WEBER,

*President of the Humboldt Savings and Loan Society,
San Francisco.*

21926

END OF
TITLE